



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 13, 2003

David R. Stoecklein
P.O. Box 856
Ketchum, ID 83340

Dear Mr. Stoecklein:

I am writing in response to your letter dated January 14, 2003, which expressed concerns about the control and measurement of diversions from Warm Springs Creek, measurement of injection and re-diversions of Neilsen Ditch water, potential illegal expansions of irrigated farm ground, and control and measurement of the Upper Fish Hatchery Canal.

The Department, working in conjunction with the watermaster, intends to enforce the order requiring the installation of appropriate control works and measuring devices on diversions from Warm Springs Creek prior to the 2003 irrigation season. The Department plans to inspect diversions with the Watermaster prior to the beginning of the irrigation season to evaluate compliance with the order.

The Department is currently in the process of adding diversions from Warm Springs Creek, Pole Stackyard Creek, Parsons Creek, and the Big Lost River above Mackay Reservoir to the Big Lost River water right accounting program and Watermaster data entry program. We anticipate that this will facilitate record keeping and accountability for the measurement of diversions above the reservoir.

The Department plans to issue a notice to appropriate parties requiring the installation of a device to measure water flowing into Warm Springs Creek from the Neilsen Ditch. We also intend to enforce measurement of re-diversions from Warm Springs Creek. We plan to evaluate the current practice used by the Watermaster to determine diversion data for pumps on Warm Springs Creek. Installation of time clocks or additional measuring devices may be required if necessary to obtain adequate data.

We have reviewed satellite imagery from the 2002 irrigation season with respect to legal places of use. Irrigated farm ground located outside of a legal place of use was not observed in the vicinity of Warm Springs Creek. The Department intends to obtain additional satellite imagery for future irrigation seasons to inspect for potential illegal expansions in place of use.

As part of a 1999 settlement agreement between water users associated with the Upper Fish Hatchery Canal, water right owners who transferred their point of diversion from the canal to another location agreed to leave 21 percent of the water associated with the water rights being transferred in the canal. Because of this agreement, the amount of

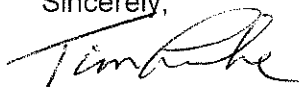
water turned into the canal includes up to 100 percent of the flow rate of the water rights that remained on the canal, plus 21 percent of the flow rate of the rights that were transferred. The water right owners that transferred from the canal to another point of diversion are only allowed to divert 79 percent of their water right.

Mr. Johnson and Dr. Reno have a valid lateral water rotation agreement on file with the Water District and the Department. This agreement allows Mr. Johnson and Dr. Reno to rotate the use of their water rights diverted at the Upper Fish Hatchery Canal, as long as the rights are applied to beneficial use.

According to Department records, Dr. Reno has a valid water right to divert from Warm Springs Creek through both the Upper Fish Hatchery Canal and a valid water right to divert ground water from the Reno/Unger well (formerly Reno/Aslett well). These rights have a combined diversion rate limit of 1.96 cfs (98 miner's inches). Dr. Reno may also divert an additional 0.333 cfs (16.65 miner's inches) through the canal when he is using Mr. Johnson's water rights under the lateral rotation agreement. Unger also has a right to divert up to 1.74 cfs (87 miner's inches) from the Reno/Unger well. The Unger right from this well, 34-7245A, is not combined with rights from the canal or other sources. The Watermaster is responsible for determining the flow at the well under the Reno right and adjusting the diversion rate at the Upper Fish Hatchery Canal, if appropriate, in accordance with applicable water rights.

The Watermaster is responsible for delivering the appropriate amount of water at the head of the Upper Fish Hatchery Canal. Management of re-diversions from the canal is normally the responsibility of the water users located on the canal. If there are disputes between the water users on the canal, they have the option of forming a lateral association and hiring a lateral manager to control the re-diversions. The agreement referenced in your letter among the users of the Upper Fish Hatchery Canal is an agreement among private parties. Most of the approved water right transfers that transfer water from the canal do not include reference to the agreement mentioned in your letter. The Department therefore does not intend to order the installation of measuring devices for re-diversions from the Upper Fish Hatchery Canal.

Sincerely,



Tim Luke
Water Distribution

cc: Doug Rosenkrance, Watermaster
Harold Jones, IDWR Eastern Region
Scott Campbell, Attorney representing Unger Ranch
Bob Shaffer, BLRID